

December 3, 2001

NOTICE TO INTERESTED PARTIES:

SALES AND USE TAX REGULATION 1668  
RESALE CERTIFICATES

On October 24, 2001, the State Board of Equalization held a public hearing on proposed amendments to Sales and Use Tax Regulation 1668, Resale Certificates. In response to public comment, the Board recommends that changes be made to the published version of the regulation.

A change was made to clarify that sellers may use any verifiable method of establishing sales for resale, when the seller has not timely obtained a resale certificate, which includes, but is not limited to the use of "XYZ" letters. Replace the first sentence of subdivision (f), which states, "In order to assist a seller in establishing that its sales were, in fact, for resale, the Board authorizes the use of 'XYZ letters.'" with the sentences, "A seller who does not timely obtain a resale certificate may use any verifiable method of establishing that it should be relieved of liability for tax under subdivision (e). One method that the Board authorizes to assist a seller in satisfying its burden that the sale was for resale or that tax was paid, is the use of 'XYZ letters.'"

A change was made to clarify that the Board may verify the information provided in response to the "XYZ" letter, and that the treatment of non-responses to "XYZ" letters may include the use of alternative verification methods. Replace the phrase in the fourth sentence of subdivision (f)(3), which states ". . . conduct further investigations," with the phrase, "verify the information provided in the response to the XYZ letter," and add the phrase "or whether tax was paid by the purchaser." to the end of the sentence. The sentence, as modified, then would read as follows: "The Board may, in its discretion, verify the information provided in the response to the XYZ letter, including making additional contact with the purchaser or other persons to determine whether the purchase was for resale or for use or whether tax was paid by the purchaser."

In accordance with Government Code section 11346.8(c), the revised version of Regulation 1668 is being placed in the rulemaking file and mailed today to interested parties that commented orally, in writing, or that asked to be informed of such revisions. If you wish to review the rulemaking file, it is available for your inspection at the State Board of Equalization, 450 N Street, Sacramento, CA.

Questions regarding the substance of the proposed regulation should be directed to Mr. David Rosenthal, Regulations Coordinator, telephone (916) 324-0293, fax (916) 322-2958, email [Dave.Rosenthal@boe.ca.gov](mailto:Dave.Rosenthal@boe.ca.gov) or by mail at State Board of Equalization, Attn: David Rosenthal, MIC:50, P.O. Box 942879, 450 N Street, Sacramento, CA 94729-0082.

The Board will consider comments on the changed Rule if received by December 20, 2001. Written comments for the Board's consideration, notice of intent to present testimony or witnesses, and inquiries concerning the proposed administrative action should be directed to Diane Olson, Regulations Coordinator, telephone (916) 322-9569, fax (916) 324-3984, email [Diane.Olson@boe.ca.gov](mailto:Diane.Olson@boe.ca.gov) or to Lydia Moreno, Business Taxes Analyst, telephone (916) 445-7086, email [Lydia.Moreno@boe.ca.gov](mailto:Lydia.Moreno@boe.ca.gov) or by mail at State Board of Equalization, Attn: Diane Olson or Lydia Moreno, MIC: 80, P.O. Box 942879, Sacramento, CA 94279-0080.

Sincerely,

Deborah Pellegrini, Chief  
Board Proceedings Division

DP:dgo  
Attachment